

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 18-12661-RGS

EMMANUEL EVARISTE

v.

NAPHCARE

ORDER

April 10, 2019

STEARNS, D.J.

On December 31, 2018, Emmanuel Evariste initiated this malpractice action seeking monetary damages from the medical provider at the Suffolk County House of Correction. By Procedural Order dated January 9, 2019, Evariste's motion to proceed *in forma pauperis* was denied without prejudice to refiling with a certified copy of his prison account statement. See Docket No. 8. In response, Evariste filed several motions including an incomplete motion to proceed *in forma pauperis*. See Docket No. 9.

Because Evariste failed to sign and date his motion for leave to proceed *in forma pauperis* as well as his complaint, see Docket Nos. 1, 9, he was directed to do so within 21 days. See 03/15/2019 Memorandum and Order, Docket No. 17. The Memorandum and Order stated that Evariste's failure to

comply within thirty-five days will subject this case to dismissal without prejudice. *Id.*

To date, Evariste has not responded and the time to do so has expired. On March 18, 2019, Evariste filed a motion for default. *See* Docket No. 18. However, it appears that Evariste mailed the default motion before receiving the March 15, 2019 Memorandum and Order. On March 19, 2019, the default motion was denied. *See* Docket No. 19.

It is a long-established principle that this Court has the authority to dismiss an action *sua sponte* for a party's failure to prosecute his action and his failure to follow the court's orders. Fed. R. Civ. P. 41(b). Here, dismissal is appropriate because without Evariste's active participation, the court cannot effect the advancement of the case to a resolution on the merits.

Accordingly, for the failure to comply with the March 15, 2019 Memorandum and Order, this action is hereby dismissed without prejudice.

SO ORDERED.

/s/ Richard G. Stearns
UNITED STATES DISTRICT JUDGE